

The 21st July, 1982

No. 9(1) 82-6 Lab./6472.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s The Haryana Co-operative Sugar Mills Ltd. Rohtak.

BEFORE SHRI BANWARI LAL, DALAL PRESIDING OFFICER LABOUR, HARYANA, ROHTAK

Reference No. 51 of 1979.

between

SHRI SHADHI RAM WORKMAN AND THE MANAGEMENT OF M/S THE
HARYANA CO-OPERATIVE SUGAR MILLS LTD., ROHTAK.

Present:

Shri S. N. Vats for the workman.

Shri R. D. Sharma for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor—vide his order No. ID/RTK/20-79/10577, dated 5th March, 1979 under section 10(i)(c) of the I. D. Act adjudication of the dispute existing between Shri Shadi Ram, workman and the management of M/s The Haryana Co-operative Sugar Mills Ltd., Rohtak. The term of the reference was:—

Whether the termination of services of Shri Shadi Ram was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference, notices, as usual, were sent to the parties. The parties put in their appearance through their authorised representative in response to the same on 5th May, 1979. The workman proposed that his demand notice be treated as his statement of claim. The management filed their written statement. The workman did not file the rejoinder and on the basis of the pleadings of parties, the following issues were framed on 5th June, 1979:—

1. Whether the termination of services of the workman on account of any alleged infirmity or disability was justified and in order?
2. If not, to what relief is he entitled?

Another additional issue No. 3 in the form of "whether the reference is not maintainable" was framed on 6th August, 1979 on an application, dated 17th July, 1979 filed by the management.

The management examined Shri C.S. Vats, LDC, O/O Employees Provident Fund Commissioner, Faridabad and Shri Attar Singh, General Assistant respondent as their witnesses and closed their case. The workman examined himself and Shri Ram Singh, s/o Ujjagar Singh r/o Bhani Maharaj as his witnesses and closed his case. I heard the learned representatives of the parties and have also gone through the evidence oral as well as documentary and decide the issues as under:—

Issue No. 3—

As this issue was framed on an application of the management but the management had nowhere pleaded in their written statement as to what were the reasons for which the reference was not maintainable. By the evidence adduced by the parties it has been observed that the management had taken this objection on the ground that the applicant was working as Head Fitter and was getting more than 500 rupees per month as his wages so he was not covered under the definition of workman given in Section 2 (S) of the I.D. Act. But the management had not been able to prove that the main duties performed by the workman were of supervisory nature. On the other hand it has been established that the applicant was doing the work of repairing the fan by his own hands when it could not be repaired by the Assistant Fitter attached with him. The management relied on Ex. M-5 relating to the nature of duty of the Head Fitter describing the duties of the head fitter as in addition to the duties of the Fitter supervising the work of fitters and also undertaking skilled job of a fitter. This does not show that the main duties of the applicant were of supervising the work of fitter but it was incidental and in addition of his main duties of a fitter. Under the circumstances I hold that the applicant is fully covered under the definition of workman as given in the I. D. Act and the reference is maintainable. The issue is accordingly decided against the management.

Issue No. 1 2—

The workman has alleged in his notice of demand that the management terminated his services on 17th July, 1978 on account of his being disabled and infirm while he was of 56 years of age and was capable of doing this job fully well. He has further alleged that the management did not get him examined by Medical Officer and his termination without this was wrong and illegal.

The management resisted the allegations of the workman and pleaded that the workman became unfit for the post of Head Fitter on account of his old age and state of health. The services of the workman were dispensed with on account of infirmity and disability w.e.f. 17th August, 1978. The management placed on file Ex. M-3 which is a resolution approving the implementation of recommendations of the First Wage Board for sugar industries. Ex. M-4 is the resolution approving the implementation of Second Central Wage Board.

According to WW-1 Shri Ram Singh the retirement age according to the second wage board was 60 years. MW-1 Shri C.S. Vats LDC O/O Employees Provident Fund Commissioner, Faridabad has proved documents Ex. M-1 and M-2 which are the documents received in the office of the Provident Fund Commissioner duly filled in by the employee and employer and sent through his employer. The workman admitted his signatures on Ex. M-1 and M-2. The management has also placed on file document Ex. M-6 which is the character verification form filled in by the workman. The workman denied that he wrote his age as 50 years in column 7 at Mark X on Ex. M-6 but he admitted that his address given at mark X in column 5 of Ex. M-6 was correct and written at his instance. Ex. M-2 which is dated 30th December, 1975 shows the workman to be of 57 years of age while Ex. M-6 which is dated 8th March, 1969 shows him of about 50 years of age. The statement of the workman to the effect that he did not write his age about 50 years on Ex. M-6 cannot be relied upon as he has admitted the address given in Ex. M-6 was at his instance. It must be concluded that the age of the workman was also written at his information and was not written without his knowledge. Both the documents Ex. M-2 and M-6 establish that the workman was of about 57 years of age on 30th December, 1975. The workman has given out in his cross-examination that he becomes hard of hearing as soon as he enters the room. He also admitted that he was unable to read the date given on Ex. M-1 neither without naked eye nor by using spectacles. He also stated in his cross-examination that the duty of the head fitter included the taking of measurement of the pump etc., as per the requirement to the 32nd part of an inch. The workman has also admitted in his cross-examination that he had received the amount of gratuity and the earned leave wages and also his provident fund amount and he has also admitted that in the form for withdrawing of the provident fund amount he had mentioned that he was retired before he reached the age of retirement. The workman has not given any proof of his age that he was of 56 years of age at the time of his termination.

The management has been able to prove to my entire satisfaction that the workman had attained the age of 60 years at the time of his termination and it has also been proved that the workman had become infirm and disabled on account of old age and the management was justified in terminating his services on account of his reaching the age of superannuation. The issue is accordingly decided in favour of the management. The workman is not entitled to any relief. The reference answered and returned accordingly.

Dated, the 22nd May, 1982

BANWARI LAL DALAL,

Presiding Officer,

Labour Court Haryana, Rohtak.

Endst.No. 1193, dated the 28th May, 1982.

Forwarded (four copies) to the Secretary to Govt. Haryana, Labour & Employment Departments Chandigarh as required under section 15 of the I.D. Act.

BANWARI LAL DALAL

Presiding Officer,

Labour Court Haryana, Rohtak.

H. L. GUGNANI,

Commissioner & Secy.